

Message Text

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ACTION EB-08

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E.O. 11652: N/A

TAGS: EAIR, UK

SUBJECT: CIVAIR: SOME VIEWS ON LAKER SKYTRAIN

REF: LONDON 492

1. IN RECENT CONVERSATIONS WITH DEPT. OF TRADE OFFICIALS ABOUT LAKER SKYTRAIN, WE HAVE BEEN GIVEN THE FOLLOWING VIEWS WHICH MAY BE OF INTEREST TO THE DEPARTMENT.

2. IAN BROWN TOLD US JAN. 27 IN RESPONSE TO QUESTION THAT THERE HAS BEEN NO CHANGE IN UK ATTITUDE TOWARD LAKER'S REQUEST FOR A PERMIT WHICH IS STILL PENDING BEFORE CAB. SECRETARY OF STATE FOR TRADE (DELL) HAS NOT YET MADE DECISION WHETHER OR NOT DEPT. OF TRADE WILL APPEAL COURT DECISION IN FAVOR OF LAKER TO HOUSE OF LORDS. IF THAT DECISION IS POSITIVE, THEN UK WOULD NOT EXPECT US TO TAKE ANY ACTION ON LAKER'S APPLICATION FOR PERMIT UNTIL LORDS' DECISION ON THE APPEAL IS MADE. IF DECISION IS MADE NOT TO APPEAL TO THE HOUSE OF LORDS, BROWN SAID HE EXPECTED THE UK WOULD THEN REQUEST US TO ISSUE PERMIT TO LAKER AS SOON AS POSSIBLE.

3. IN SEPARATE, EARLIER CONVERSATION WITH SHOVELTON,
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WE ASKED HIM HOW COURT DECISION IN FAVOR OF LAKER, IF IT STANDS, WOULD AFFECT UK POLICY OF SINGLE DESIGNATION ON CITY-PAIR ROUTES AND UK POSITION BASED ON THAT POLICY IN RENEGOTIATION OF BERMUDA AGREEMENT. SHOVELTON POINTED OUT THAT BEFORE LAKER COULD BEGIN OPERATIONS HE WOULD HAVE TO REQUEST AMENDMENT OF HIS OPERATING PERMIT FROM THE CIVIL AVIATION AUTHORITY SINCE IT WAS KNOWN THAT HE

INTENDED TO INCREASE THE FARE WHICH WAS SPECIFIED IN THE PERMIT AT THE TIME IT WAS ISSUED. IN ADDITION, IF IT WERE DECIDED NOT TO APPEAL TO THE HOUSE OF LORDS OR IF AN APPEAL WAS MADE AND WAS DECIDED AGAINST THE GOVERNMENT, SHOVELTON SAID THE GOVERNMENT STILL COULD PROTECT ITS POLICY BY A RELATIVELY SIMPLE AMENDMENT OF THE 1971 CIVIL AVIATION ACT. EVEN IF LAKER WERE TO BEGIN SKYTRAIN OPERATIONS SOON, HOWEVER, THERE WOULD BE NO EFFECT ON UK SINGLE DESIGNATION POLICY. HE SAID SKYTRAIN WAS NOT A SCHEDULED SERVICE EQUIVALENT TO PANAM, BA OR TWA SCHEDULED SERVICES IN VIEW OF LOW PRICE, NO ADVANCE BOOKING AND OTHER LIMITATIONS ON SERVICE WHICH DO NOT APPLY TO "REGULAR" SCHEDULED OPERATIONS. INSTEAD, ACCORDING TO SHOVELTON, SKYTRAIN WAS MORE LIKE A CHARTER SERVICE WHICH COULD EXIST SIDE BY SIDE WITH SINGLE, SCHEDULED CARRIERS DESIGNATED TO OPERATE ROUTE BY UK AND US.

4. COMMENT: IT SEEMS FROM SHOVELTON'S REMARKS THAT IF LAKER SKYTRAIN SERVICE WERE TO BEGIN IN NEAR FUTURE US BILATERAL AGREEMENT NEGOTIATORS MAY BE FACED WITH STRAINED ARGUMENT NOTED ABOVE THAT LAKER SCHEDULED SERVICE IS NOT REALLY A SCHEDULED SERVICE AND SHOULD NOT BE TAKEN INTO ACCOUNT WHEN CONSIDERING SINGLE OR MULTIPLE DESIGNATION. WE DOUBT, HOWEVER, THAT DEPT. OF TRADE WILL GIVE UP EASILY ON ITS POLICY OF SINGLE DESIGNATION. DOT MAY DECIDE NOT TO TAKE THE APPEAL TO THE HOUSE OF LORDS IN VIEW OF RECENT PRECEDENT ALSO INVOLVING THE EXERCISE OF POWERS BY A MINISTER (THE TAMESIDE SCHOOL CASE) IN WHICH THE LORDS UPHELD THE COURTS DECISION AGAINST THE GOVERNMENT LIMITED OFFICIAL USE

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MENT. HOWEVER, THE OPTION TO TRY TO AMEND THE 1971 CIVIL AVIATION ACT IS STILL OPEN AND WE EXPECT WOULD BE USED BEFORE THE GOVERNMENT ADMITS DEFEAT ON THIS ISSUE.

ARMSTRONG

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